

FILED

2014 OCT 14 AM 11:51

CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
AKRON

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

**KATHLEEN JOHNSON**  
834 Vincent Blvd.  
Alliance, OH 44601,

*Plaintiff,*

**vs.**

**JUDY A. GERSON, D.D.S.**  
5925 Stephanie Lane  
Solon, OH 44139,

and

**OHIO NORTH EAST HEALTH  
SYSTEMS, INC. D/B/A GOOD  
SAMARITAN COMMUNITY HEALTH  
CENTER**

c/o Ronald Dwinells, Agent  
726 Wick Ave.  
Youngstown, OH 44505,

*Defendants.*

CASE NUMBER: **5:14 CV 2284**

JUDGE: **JUDGE ADAMS**  
**MAG. JUDGE BURKE**

**PLAINTIFF'S COMPLAINT**

**(Dental Malpractice pursuant to  
Federal Tort Claims Act)**

Plaintiff, Kathleen Johnson ("Plaintiff"), by and through Counsel and for her Complaint against Defendants, Judy A. Gerson, D.D.S. and Ohio North East Health Systems, Inc. d/b/a Good Samaritan Community Health Center (collectively, "Defendants"), states as follows:

### **THE PARTIES**

1. Plaintiff is an individual residing in Stark County, Ohio.
2. Defendant, Judy A. Gerson, D.D.S. ("Dr. Gerson"), is a licensed individual practicing dentistry in Stark County, Ohio.
3. Defendant, Ohio North East Health Systems, Inc. d/b/a Good Samaritan Community Health Center ("ONEHS"), is a duly-registered Ohio not-for-profit corporation with its principal place of business in Youngstown, Ohio, but providing services and conducting business activities in Stark County, Ohio.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 171, 1346(b), 2401 (b), 2671-2689, and 1331.
5. Venue before this Court is appropriate as all actions and omissions at issue in this case occurred in Stark County, Ohio.

### **FEDERAL TORT CLAIMS ACT EXHAUSTION OF REMEDIES**

6. On or about March 28, 2014, Plaintiff filed with the United States Department of Health and Human Services a claim for Damage, Injury, or Death arising out of her injuries incurred on, about, and after September 11, 2013 relating to dental care and treatment rendered by Defendants herein, being Claim No. 2014-0292 (the "Claim").
7. On or about August 21, 2014, The United States Department of Health and Human Services denied Plaintiff's Claim (the "Denial").

8. Pursuant to the Denial of the Claim and in accordance with 28 U.S.C. § 2401(b), Plaintiff has exhausted her administrative remedies in relation to the Claim, thereby conferring jurisdiction upon this Court to determine the Claim.

**COUNT I – DENTAL MALPRACTICE**

9. Upon information and belief, at all times relevant herein, Dr. Gerson was acting as an authorized agent and/or employee of ONEHS.

10. On or about September 11, 2013, Defendants, at ONEHS's Alliance, Ohio facility, provided dental services to Plaintiff ("Services").

11. In providing the Services, Defendants owed Plaintiff a duty of care.

12. Defendants breached their duty of care to Plaintiff in rendering the Services.

13. Defendants' breach of their duty of care to Plaintiff directly and proximately caused her to incur injuries and suffer damages (collectively, the "Damages"), including, but not limited to, medical and dental bills, lost wages, and conscious pain and suffering.

14. A qualifying dental Affidavit of Merit is attached hereto as **Exhibit 1**.

15. The value of Plaintiff's Damages directly and proximately caused by Defendants' negligence is in excess of Seventy-Five Thousand Dollars (\$75,000.00).

**WHEREFORE** Plaintiff, Kathleen Johnson, requests that the Court grant judgment to her and against Defendants, jointly and severally, in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) plus interest at the statutory rate, and an award of costs, expenses, and attorney's fees, and any other relief which the Court deems just and/or equitable.

Respectfully submitted,

WINKHART, RAMBACHER, & GRIFFIN



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*Attorneys for Plaintiff*

**INSTRUCTIONS FOR SERVICE**

TO THE CLERK:

Please note that pursuant to Fed. R. Civ. P. 4(e)(1), Ohio Civ.R. 4.1, and Local Rule 4.2, Plaintiff requests Service of a Summons and Complaint upon Defendants by Certified Mail at the following addresses and has complied with the provisions of Local Rule 4.2 for completion of same:

**JUDY A. GERSON D.D.S.**

5925 Stephanie Lane  
Solon, OH 44139,

and


**OHIO NORTH EAST HEALTH SYSTEMS, INC.**

**D/B/A GOOD SAMARITAN COMMUNITY HEALTH CENTER**

c/o Ronald Dwinnells, Agent

726 Wick Ave.

Youngstown, OH 44505



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*Attorney for Plaintiff*